

but no later than within 14 days of receipt of the enrollee's request for a reconsideration.

(3) If the IRE reaffirms its decision, in whole or in part, the enrollee may appeal the IRE's reconsidered determination to an ALJ, the MAC, or a Federal court, as provided for under this subpart.

(4) If on reconsideration the IRE determines that coverage of provider services should terminate on a given date, the enrollee is liable for the costs of continued services after that date unless the IRE's decision is reversed on appeal. If the IRE's decision is reversed on appeal, the MA organization must reimburse the enrollee, consistent with the appealed decision, for the costs of any covered services for which the enrollee has already paid the MA organization or provider.

[68 FR 16667, Apr. 4, 2003, as amended at 75 FR 19812, Apr. 15, 2010; 76 FR 21569, Apr. 15, 2011]

### Subpart N—Medicare Contract Determinations and Appeals

SOURCE: 63 FR 35113, June 26, 1998, unless otherwise noted.

#### § 422.641 Contract determinations.

This subpart establishes the procedures for making and reviewing the following contract determinations:

(a) A determination that an entity is not qualified to enter into a contract with CMS under Part C of title XVIII of the Act.

(b) A determination to terminate a contract with an MA organization in accordance with § 422.510(a).

(c) A determination not to authorize a renewal of a contract with an MA organization in accordance with § 422.506(b).

#### § 422.644 Notice of contract determination.

(a) When CMS makes a contract determination, it gives the MA organization written notice.

(b) The notice specifies—

(1) The reasons for the determination; and

(2) The MA organization's right to request a hearing.

(c) *CMS-initiated terminations*—(1) *General rule.* Except as provided in (c)(2) of this section, CMS mails notice to the MA organization 90 calendar days before the anticipated effective date of the termination.

(2) *Exception.* If a contract is terminated in accordance with § 422.510(b)(2)(i) of this part, CMS notifies the MA organization of the date that it will terminate the MA organization's contract.

(d) When CMS determines that it will not authorize a contract renewal, CMS mails the notice to the MA organization by August 1 of the current contract year.

[63 FR 35113, June 26, 1998, as amended at 72 FR 68724, Dec. 5, 2007; 75 FR 19813, Apr. 15, 2010]

#### § 422.646 Effect of contract determination.

The contract determination is final and binding unless a timely request for a hearing is filed under 422.662.

[72 FR 68724, Dec. 5, 2007]

#### § 422.660 Right to a hearing, burden of proof, standard of proof, and standards of review.

(a) *Right to a hearing.* The following parties are entitled to a hearing:

(1) A contract applicant that has been determined to be unqualified to enter into a contract with CMS under Part C of Title XVIII of the Act in accordance with § 422.501 and § 422.502.

(2) An MA organization whose contract has been terminated under § 422.510 of this part.

(3) An MA organization whose contract has not been renewed under § 422.506 of this part.

(4) An MA organization who has had an intermediate sanction imposed in accordance with § 422.752(a) through (b) of this part.

(b) *Burden of proof, standard of proof, and standards of review at a hearing.* (1) During a hearing to review a contract determination as described at § 422.641(a) of this subpart, the applicant has the burden of proving by a preponderance of the evidence that CMS' determination was inconsistent with the requirements of § 422.501 and § 422.502 of this part.